

BEST PRACTICE GUIDANCE FOR CATERING INDUSTRY

Subject: Reservation deposits, service charges, food description and pricing

Applicable to:

- Restaurants;
- Cafés;
- Takeaways;
- Social / Sports Clubs; and
- Other relevant catering businesses.

One of the responsibilities of the OFT, as set out in section 7 of the Fair Trading Act 2015, is to promote good business practices which may affect consumer interests and to give information and advice in this regard.

The OFT has received several complaints from consumers about issues they have had with restaurants / caterers regarding deposits, service charges and food description. Whereas the OFT has approached some restaurants / caterers individually in order to address any areas of specific concern, it has also decided to approach the local restaurant / catering industry generally with a view to raising awareness of these issues and providing best practice guidance with the objective of reducing complaints against this sector. It is hoped that this will ensure that all businesses within this sector are operating legally and on a level playing field with each other.

Reservation deposits

It is customary for many restaurants to require a deposit from consumers at the time of making reservations for a large number of diners or where the reservation is for a particularly busy time of year. It is important however that all restaurants are providing consumers with booking terms and conditions. Whereas it is generally understood that deposits are non-refundable, the full terms of your booking must be made explicitly clear to your consumers. This information should include:

1. The value of deposit required;
2. When the deposit should be paid by to secure the reservation;
3. How reservations can be cancelled;
4. Whether the deposits are refundable, and in what circumstances; and
5. What the consequences of non-attendance are.

Whereas many restaurants may offer some or all of the above information verbally at the time of booking, it is recommendable that this information is provided to the consumer in written form in order to avoid any disputes that may arise thereafter.

Consumers should also be made aware of the booking terms prior to entering into a contract with the restaurant at the time of paying the deposit. Ideally a written copy of these terms (which must have been communicated to the consumer in advance) should be included with the receipt issued to them as proof of the deposit paid. This information could additionally be included in any website or a notice at the premises.

Service charges



Some restaurants include automatic service charges on their bills while others only do so for larger groups of diners. Whereas there are no legal impediments to this practice, this information should be included in the list of prices available to customers in advance, either on the menu or on a prominent notice at the premises where it can be viewed prior to them ordering. This information should also be provided at the time of accepting bookings and deposits.

Food descriptions

Consumer complaints received by our offices indicate that:

1. The fish Panga is being served as Cod, King Clip (Rosada) or Atlantic Pollack (Abadejo); and
2. The Cuttle Fish (Pota) is being served as Squid (Calamares).

The OFT understands that both Panga and Cuttle Fish are cheaper and 'inferior' fish products than the products they are being advertised and sold as.

Whereas complaints received to date relate only to a handful of restaurants that are engaging in these practices, we would like to draw this matter to the attention of all local restaurants / caterers with a view to ensuring that these detrimental practices do not continue. In order to protect the interests of consumers in Gibraltar we would strongly recommend that all restaurants / caterers therefore ensure that their menus adequately describe the correct nature of the products being served to consumers at their establishments. This is not only relevant to the sale of fish but to all other food products as well.

Pricing

Please ensure that all prices for food, drinks and any other related purchases or services etc. are included in your menus or otherwise made available to consumers prior to engaging with you. Additionally, if you accept any foreign currencies or charge commissions for the use of debit/credit cards, these rates should also be clearly indicated.

Upon receipt of a consumer complaint against a restaurant or other caterer the OFT shall, in determining whether a restaurant / caterer has engaged in a harmful consumer practice, consider observance by the restaurant / caterer of the above-mentioned best practices. This may lead to an investigation into the restaurant and may result in enforcement action taken in accordance with the Fair Trading Act 2015 and/or the Consumer Protection (Unfair Trading) Act 2008. A departure from any of our recommendations will not necessarily mean that the practice is unfair however and each particular case needs to be considered on its merits.

Please do not hesitate to contact us should you require any further information or guidance. You can view the full text of both legislations cited, via our website, accessible from this link: <http://oft.gov.gi/index.php/departments/consumer-protection>

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